

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Part 2 of the Commission's Rules to)	ET Docket No. 00-258
Allocate Spectrum Below 3 GHz for Mobile and Fixed)	
Services to Support the Introduction of New Advanced)	
Wireless Services, including Third Generation Wireless)	
Systems)	
)	
)	
Amendment of Section 2.106 of the Commission's)	ET Docket No. 95-18
Rules to Allocate Spectrum at 2 GHz for Use)	
By the Mobile-Satellite Service)	
)	
)	
The Establishment of Policies and Service Rules)	IB Docket No. 99-81
for the Mobile-Satellite Service in the 2 GHz Band)	
)	
)	
Petition for Rulemaking of the Cellular)	RM-
Telecommunications & Internet Association Concerning)	
Reallocation of 2 GHz Spectrum for Terrestrial Wireless)	
Use)	

REPLY OF CELSAT AMERICA, INC.

In accordance with Section 1.429(g) of the Commission rules, 47 C.F.R.

§ 1.429(g), Celsat America, Inc. ("Celsat"), by undersigned counsel, hereby submits this Reply to the Comments and Oppositions filed on November 19, 2001 in response to the Petition for Reconsideration of the Cellular Telecommunications & Internet Association ("CTIA") in the above-captioned dockets. Celsat is one of eight companies recently granted a license to provide mobile

satellite service in the 2 GHz band and, accordingly, is directly interested in this proceeding.¹ Rather than clutter the extremely well-developed record in this proceeding with extended comments, Celsat submits this Reply primarily to (i) express its support for the Oppositions submitted by the Boeing Company and Globalstar, L.P. and (ii) correct a mischaracterization made by Cingular Wireless in its comments in support of the CTIA Petition for Reconsideration.

CTIA's primary concern in the Petition for Reconsideration is that the Commission declined to place on public notice CTIA's Rulemaking Petition – which sought to hold up the licensing of all 2 GHz MSS systems at the eleventh hour and reallocate the entire 2 GHz MSS band to terrestrial uses. As amply demonstrated by the Oppositions of Boeing and Globalstar, CTIA's Rulemaking Petition was accorded appropriate treatment by the Commission in all material respects. Among other things, Globalstar persuasively argues that CTIA's Rulemaking Petition was in essence a grossly late-filed petition for reconsideration of the Commission's 1997 decision to allocate spectrum in the 2 GHz band for MSS.² Given that petitions "which are moot, premature, repetitive, frivolous, or which plainly do not warrant consideration by the Commission may be denied or dismissed without prejudice to the petitioner"³, the Commission properly denied CTIA's request. Moreover, to the extent that CTIA sought to defer the licensing of the 2 GHz MSS applicants, the

¹ See FCC International Bureau Authorizes New Mobile Satellite Service Systems in the 2 GHz Band, News Release, 2001 FCC Lexis 3850 (July 17, 2001).

² Globalstar Opposition at p. 4.

³ 47 C.F.R. § 1.401(e).

remedy requested did not require amendment of any Commission rule and, therefore, no public notice of the petition was required.

Cingular's comments in support of the CTIA Petition for Reconsideration likewise purport to demonstrate that the Commission was required to "revisit the issue of MSS viability" before issuing the 2 GHz MSS licenses.⁴ As support for this erroneous claim, Cingular states, among other things, that its comments on the *Flexible Use NPRM*⁵ (in which the Commission is proposing to permit the ancillary terrestrial use of the 2 GHz MSS band by the current 2 GHz MSS licensees), demonstrated that "the earlier admissions of nonviability in the absence of terrestrial authority by Motient and New ICO were now echoed by a growing chorus of other MSS licensees,"⁶ including Celsat. Cingular grossly mischaracterizes Celsat's statements concerning ancillary terrestrial use of the 2 GHz MSS band and the Commission should not be misled by Cingular's misstatements. Specifically, Cingular asserts that "[e]ven Celsat admitted that without terrestrial authority, 'spectrum will lie fallow'"⁷, suggesting that Celsat would not utilize the *satellite* component of the 2 GHz MSS band unless it was also granted an ancillary terrestrial component. As the Commission's records clearly reflect in the very pleading cited by Cingular, Celsat "has

⁴ Comments of Cingular at p. 6.

⁵ See In the Matter of Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band, Notice of Proposed Rulemaking, FCC 01-225 (2001).

⁶ Comments of Cingular at p. 6.

⁷ Id.

formulated its business plan without reliance on terrestrial reuse of satellite spectrum" and Celsat's view is that the *terrestrial* – not the satellite – spectrum will lie fallow if it is not used by the 2 GHz MSS licensees.⁸ In short, Cingular's claim that the Commission was required to reassess the need for 2 GHz MSS prior to issuing 2 GHz MSS licenses because the nonviability of the service was "now echoed" by other MSS licensees (including Celsat) is simply false and should be stricken from the record.

For all of the foregoing reasons, the Commission should dismiss CTIA's Petition for Reconsideration.

Respectfully submitted,

CELSAT AMERICA, INC.

By: /s/ Brian D. Weimer

John C. Quale

Brian D. Weimer

Skadden, Arps, Slate, Meagher & Flom LLP

1440 New York Avenue, N.W.

Washington, D.C. 20005-2111

202-371-7000

Its Attorneys

Dated: November 29, 2001

⁸ See Consolidated Comments of Celsat America, Inc. in IB Docket No. 01-185 and ET Docket No. 00-258 (filed October 19, 2001).

CERTIFICATE OF SERVICE

I, Michael Murphy, hereby certify that on this 29th day of November, 2001, copies of the foregoing "Reply of Celsat America, Inc." were served by first class mail on the following parties:

Douglas I. Brandon
Vice President-External Affairs
AT&T Wireless Services, Inc.
1150 Connecticut Avenue, NW
Washington, DC 20036

David A. Nall
Squire, Sanders & Dempsey L.L.P.
1201 Pennsylvania Avenue, NW
P.O. Box 407
Washington, DC 20044-0407
Attorneys for The Boeing Company

Michael F. Altschul
Senior Vice President, General Counsel
Cellular Telecommunications & Internet
Association
1250 Connecticut Avenue, NW, Suite 800
Washington, DC 20036

J.R. Carbonell
Carol L. Tacker
David G. Richards
5565 Glenridge Connector
Suite 1700
Atlanta, GA 30342
Attorneys for Cingular Wireless LLC

William D. Wallace
Crowell & Moring LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004
Attorneys for Globalstar, L.P.

/s/ Michael Murphy
Michael Murphy